

REG-94-005 DRUG TAX STAMPS; USE

005.01 Except as otherwise provided in this rule, drug tax stamps must be physically affixed, using their adhesive backing, to a container holding the taxable drugs. Except as herein provided, any other use or method of affixing the stamps shall render the stamps invalid for the purpose of satisfying the tax liability for confiscated, otherwise untaxed drugs. No stamp shall be considered valid for the purpose of satisfying tax liability if it is not affixed using its adhesive backing.

005.02 In the case of marijuana or other drug plant fields where physically affixing drug stamps to a container is not possible, a taxpayer may purchase an appropriate amount of stamps and affix them to a letter. The letter must be dated and contain a legible handwritten description of the field, its contents and location sufficiently detailed so as to permit agents of the Department or law enforcement agencies to determine whether sufficient taxes on the field have been paid.

005.02A Any letter used in lieu of a container for the purposes of these regulations must be produced upon the request of an agent of the Department or law enforcement agency.

005.02B Employees of the Department are not obliged to provide an estimate to a taxpayer of the probable tax liability on a particular field of plants. In the event such an estimate is provided, sole responsibility for its accuracy shall remain with the taxpayer and the Department shall neither be bound by the estimate nor precluded from assessing additional tax, penalties and interest if appropriate.

005.03 In the case of drugs not ordinarily stored or transported in containers, or for which affixing stamps is difficult or not covered by these regulations, a taxpayer may either contact the Department's Drug Tax Agent for instructions on how to affix the stamps or affix stamps to those drugs in any manner he or she deems appropriate. However, if a taxpayer elects not to contact the Department's Drug Tax Agent and a doubt subsequently exists regarding whether drug tax stamps properly were affixed, the Department shall determine whether there was any practical way in which the stamps could have been affixed permanently to a container. If the Department concludes that affixing the stamps to a container was practical but not effected, the stamps shall be invalid for the purpose of satisfying the tax liability, and tax, penalties and interest may be assessed as if the stamps had never been purchased.

(Sections 77-4306 and 77-4307. February 2, 1992.)